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National Secretary-Treasurer

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May 16, 2017

The Honorable Phil Roe
Chairman
House Committee on Veterans Affairs
Washington, DC 20515

The Honorable Tim Walz
Ranking Member
House Committee on Veterans Affairs
Washington, DC 20515

Re: AFGE Opposition to Amendment in the Nature of a Substitute to H.R. 1461 – Even Worse than the Legislation as Introduced

Dear Chairman Roe and Ranking Member Walz:

AFGE strongly urges you to oppose the Amendment in the Nature of a Substitute to H.R. 1461, the “Veterans, Employees and Taxpayers Protection Act of 2017.” Introduced by Representative Jodey Arrington (R-TX) and further amended by Representative Jim Banks (R-IN). This legislation imposes undue restrictions on unions’ ability to provide adequate representation to their members at the Department of Veterans Affairs (VA). Federal employees conduct official agency business while on official time. Official time is not used for union business. Current law prohibits that, and our union adheres scrupulously to the law. Official time is the use of volunteer union representatives to conduct limited representational activities while in an official duty status. Under the Federal Service Labor-Management Relations Act, official time is a longstanding, necessary tool that gives federal agencies and their employees the means to expeditiously and effectively utilize employee input to address mission-related challenges, as well as bring closure to conflicts that arise in all workplaces. Without official time, there is no system in place that allows federal employees to safely report issues of discrimination and abuse of federal resources, or recommend ways in which agencies can improve the delivery of public services.

H.R. 1461 was designed with the express purpose of preventing federal employee unions from carrying out their statutory representational duties. It allows members to drop their membership at any time; it interferes with the election of chosen union leadership by limiting who can provide official representation of members of the bargaining unit; and it extends the time when a new hire is not protected by due process rights. The amendment in the nature of a substitute further erodes unions’ ability to provide statutorily-required representation.

Please OPPOSE H.R. 1461. This legislation will:

- Place arbitrary restrictions on official time specifically to make sure that medical professionals do not receive adequate representation—H.R. 1461 proposes to amend current law and arbitrarily cap the percentage of time union officers can spend on

representational duties on official time, and eliminates it entirely for many professions. It would prohibit anyone at the VA from using more than 25% official time, and ban official time entirely for physicians, dentists, registered nurses, physician assistants, podiatrists, chiropractors and optometrists, and any employee earning \$100,000 or more. While the bill establishes a very limited and laborious waiver determination process that would make a few more employees eligible for official time, that determination is totally subject to the Secretary's discretion. In addition, the bill makes an unprecedented intrusion into collective bargaining rights by prohibiting unions from bargaining over waiver decisions and prohibiting the union from pursuing claims of unfair labor practices.

By severely restricting who can use official time, and capping the amount that can be used, federal employees would be denied union representation. Officials engaged in patient care would be banned from conducting the representational duties of a local officer, effectively being prohibited from holding office. A union should be able to freely and fairly elect its representatives.

Official time is agreed upon between labor and management. It is not more efficient for the union or for management to have several people doing the work part time than it is to have one person doing the work. In fact, it is less efficient. The restrictions this bill creates result in a form of micromanagement that will tie the hands of supervisors and agency officials when it comes to scheduling meetings, legal proceedings, and trainings that ensure the health and safety of workers and the veterans they serve.

- **Extend probationary periods for new hires from 12 months to two years**, making it more difficult for the VA to fill the greater than 49,000 vacancies that are causing staffing shortages, impeding many critical agency functions. The VA will be less able to compete with other employers if it cannot provide the stability and benefits of full-time career positions, especially when recruiting medical professionals. Any good manager knows within a year, and usually within six months, whether a new hire is a good fit and will thrive in the position.
- **Allow members to revoke their membership at any time**—H.R. 1461 would interfere with union business for the express purpose of trying to break the union and reduce membership. Right now, union members sign a contract for a year at a time. Bargaining unit members should not be able to drop in and out of the union several times each year. Individuals cannot buy health insurance just in time to go to the doctor, drop it the next day, and then sign up again when they become ill. The union dedicates resources to its membership that necessitate being able to count on a year-long commitment at a time.
- **Discourage communication with Congress while on duty time** - H.R. 1461 would discourage federal employees from communicating with Members of Congress to improve delivery of public services. We believe it is in the public interest to have formal lines of communication open between Congress and rank and file federal employees in the executive branch.

H.R. 1461 also calls for the VA to accurately track the use of official time. AFGE does not object to this provision of the legislation. We believe that a thorough analysis of the factual and accurate tracking of the use of official time is necessary before determining that any changes in the amount are necessary, or any arbitrary limitations imposed.

Federal managers and their employees are fully competent to negotiate the terms of official time, when it is needed, how much is needed and by whom, and where it should be used to address unique agency and workplace issues. H.R. 1461 is a misguided attempt to thwart the union's right to elect its chosen leadership that is intended to break the back of the union and undermine federal employees' right to representation.

Please oppose H.R. 1461, the "Employees and Taxpayers Protection Act of 2017." For questions please contact Julie Tippens, julie.tippens@afge.org; 202-639-6409.

Sincerely,

A handwritten signature in black ink, reading "J. David Cox, Sr." in a cursive script.

J. David Cox, Sr.
National President